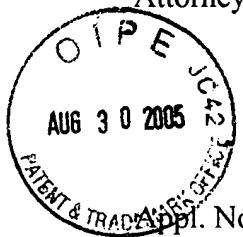


Attorney's Docket No. 018360/218130

PATENT



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appl. No.: 09/939,782 Confirmation No.: 2833
Applicant(s): Alie, et al. Art Unit: 3625
Filed: 08/27/2001
Examiner: Robert M. Pond
Title: INTERNATIONAL CASH-ON-DELIVERY SYSTEM AND METHOD

Docket No.: 018360/218130
Customer No.: 00826

Mail Stop Appeal Brief-Patents
Commissioner for Patents
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Alexandria, VA 22313-1450

APPEAL BRIEF UNDER 37 CFR § 41.37

This Appeal Brief is filed pursuant to the "Notice of Appeal to the Board of Patent Appeals and Interferences" filed June 30, 2005.

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1. ***Real Party in Interest.***

The real party in interest in this appeal is United Parcel Service of America, Inc., the assignee of the above-referenced patent application.

2. ***Related Appeals and Interferences.***

Appellant is not aware of related appeals and/or interferences involving this application or its subject matter.

3. ***Status of Claims.***

Claims 1-3, 5-9, 11-21, 24, 25, 28, 29, 31-45 are pending and stand rejected. Claims 4, 10, 22, 23, 26, 27 and 30 have been cancelled.

4. *Status of Amendments.*

Applicants have submitted an Amendment under Rule 41.33(a), and are awaiting the Examiner's decision whether to enter the requested amendment.

5. *Summary of Claimed Subject Matter.*

Generally, the present invention relates to delivery systems and methods for facilitating a transaction between a seller and a buyer wherein the seller has agreed to exchange package(s) of goods for a payment from the purchaser. The systems and methods of the claimed invention employ a combined escrow of both the package and payment. The package is escrowed by placing a hold command on the package during shipping that stops the package at an intermediate delivery location so that the package remains in control of the delivery service or other system while awaiting payment into escrow. Release of the package from the intermediate location for final delivery to the purchaser is triggered by payment into escrow, and payment of the seller out of escrow is triggered by final delivery of the package to the purchaser.

Thus, all of the claims conduct, support, or facilitate:

- Initiating shipping of a package before payment has been made or guaranteed;
- Putting a hold on further shipment in effect before the package moves beyond an intermediate location;
- Receiving payment for the package into escrow, and in response, releasing the hold on further shipment;
- Completing delivery to the purchaser and acquiring proof of delivery;
- Sending proof of delivery to the holder of the funds in escrow; and
- Releasing payment of the funds to the seller.

A significant benefit of the claimed method and systems comes from the ability to move the goods quickly after the parties agree to their sale without creating an unacceptable economic risk to either party. In an environment where efficiency in logistics is highly valued, the present invention's ability to start moving the goods while a payment guarantee (escrow) is being established is a significant benefit, especially because it protects the seller from delivery before the escrow payment is made, and protects the purchaser through the payment escrow.

The hold command may be initiated in response to any of several events, and these variations appear in different claims. In the method of Claim 25, an information system transmits the hold command responsive to receiving the shipment order information, that is, at the beginning of the shipment process. Similarly, in the system of Claim 21, the electronic information system transmits the hold command to the import service system in response to receiving the package shipment information. Other claimed systems provide the hold command in a manner not tied to the initiation of the shipment process. In the system of Claim 1, for example, the information system transmits the hold command in response to a request from the seller, purchaser, or delivery service system. In embodiments covered by Claim 1 and by Claims 35-38, the hold command may be initiated after shipping begins.

The term "intermediate location" means a location that is en route to a location of the purchaser, reached after shipment begins and progress has been made in delivering the package. This meaning is supported by the specification, for example at page 9, lines 16-31 and page 10 line 1 of the Pat. App.:

Generally, a delivery service system of the present invention is capable of holding the package at an intermediate location while awaiting a release request from the information system. In the I-COD system 10, one of the brokerages 22, 23 of the delivery service system 11 is preferably capable of holding the package at the intermediate location upon receipt of a hold command from the information system 13. More preferably, the import brokerage 23 has a holding location in the second country in which to hold the package in response to the hold command, as shown in FIGS. 1 and 2. Holding the package in the same country in which the purchaser 17 resides allows final delivery of the package to the purchaser in a single step. Alternatively, in some transactions it may be desirable to hold the package in the first country, or intermediate countries en route to the second country. Holding the package in the first country, or an intermediate country, may be desirable when the delivery system has a holding location with facilities particularly suited to holding the package, such as cold storage facilities for packages containing frozen goods, but the facilities are not located in the second

country. Use of holding facilities in a country other than the second country may be in response to a customized requested submitted by the purchaser 17, or a customized hold request transmitted by the information system 13.

And in another example at page 16, lines 9-18 of the Pat. App.:

Although the preferred embodiments of FIGS. 1 and 2 involve international transactions, it should be understood that the present invention can be applied to transactions where the seller 16 and purchaser 17 are in the same country, as shown in Figure 5. In such a case, the seller drops off the package at a drop off location 220 (or the package is picked up from the seller 16 by the shipper) and the package is transported by the delivery service system 11 to a holding location 223 for the goods. The holding location can be, for example, a hub or service center of the carrier which provides the delivery service.

Yet another example of shipment commencing before the package is held is found at page 14, lines 15-21 of the Pat. App.:

For instance, the purchaser may log on to a retail or wholesale web site of the seller, select merchandise from the web site for purchase, agree to a payment amount and agree to a shipping method, i.e., use of the I-COD system 10. The seller 16 prepares the merchandise as a package (or packages) and enters shipment information 102 into a shipment order web site 38 of the delivery service system 11. The local delivery system 20 in the first country begins delivery of the package 103.

Upon entry of shipment information by the seller 16, shipment notification is sent 104 by the shipment order system 38 to the I-COD web site (information system) 13. In response to receipt of the shipment notification, the I-COD web site 13 transmits 105A a request to the import brokerage 23 to hold the package for delivery.

The intermediate location for holding the package is also discussed at page 5, lines 1-12 of the Pat. App.:

The present invention is particularly useful for a cross-border transaction wherein the first location is in a first country and the intermediate location is in a second country that is also occupied by the purchaser. An export brokerage of the delivery service system is located in the first country and is capable of clearing export of the package out of the first country. An import brokerage of the delivery service system is located in the second country and is capable of clearing import of the package into the second country. Further, the import brokerage has facilities to hold the package, such as those used to await import authorization, at the intermediate location in response to the hold command. Holding the package in the purchaser's country allows delivery of the package to the purchaser in a single final step. Alternatively, the intermediate location may be in the first country, or in a country en route to the purchaser's country, where the shipper has facilities particularly suited to holding the package.

The following discussion turns to the individual independent claims.

Claim 1

Claim 1 is directed to a delivery system for facilitating a purchase transaction. The invention recited in Claim 1 is supported by the embodiment shown in Figure 1 of the Pat. App. Figure 1 of the Pat. App. shows a delivery service system 11 configured to receive the package and deliver the package (double line indicating goods flow) from a first location (1st country local delivery system 20) to an intermediate location (import brokerage 23). Figure 1 of the Pat. App. also shows the delivery service system 11 receiving the hold package and release package communications (dotted lines) at an import brokerage 23. *See Pat. App., page 9, lines 16-23.* Delivery of the package (double line) continues via the delivery service system (2nd country local delivery system 21) to a purchaser in the second country 17 after the release package communication. *See Pat. App., page 15, lines 10-13.*

Figure 1 of the Pat. App. also shows a payment system (I-COD bank 12). Payment is received from a purchaser bank 27 by the I-COD bank 12 (right side of Figure 1) and a notice of

payment (dashed line) is sent to an I-COD website 13. A distribution command in the form of remittance advice from the I-COD website 13 (triggered by the verification of delivery communication) is sent to the I-COD bank 12 (on the left side of Figure 1) which then makes payment (solid line) to a seller bank 28. *See* Pat. App., page 10, lines 30-31 describing receipt of purchaser payment and page 11, lines 1-4 and 12-15 describing distribution of payment.

Figure 1 of the Pat. App. further shows an information system, such as the I-COD website 13, receiving a request to hold the package from a seller 16 and automatically transmitting a hold command. The request to hold the package can also be made by the delivery service or the purchaser through the information system (I-COD website 13), as described at page 4, lines 15-17 of the Pat. App.

Notably, Figure 1 of the Pat. App. differs from Figure 2 of the Pat. App. in that it shows the seller 16 entering a shipment order into the shipment order system 38 and separately entering a hold request via submission of a shipment notification (dashed line) into the I-COD website 13. For example, as shown in Figure 1, the seller 16 would enter the hold request in the I-COD website 13 after initiating shipment through the shipment order system 38. This embodiment contemplates that the service embodying the invention may be ordered to be applied to an existing shipment order. Thus, transmission of the hold command to the delivery service system may be in response to a request from one of the seller, purchaser or delivery service system and is not automatically requested with entry of the shipping request.¹ This allows shipping to commence prior to entry of the hold request.

The information system (I-COD website 13) also receives a payment verification in the form of the notice of payment (dashed line) from the I-COD bank 12. Payment verification causes the information system (I-COD website 13) to send the release package command (dashed line) to the import brokerage 23. Verification of delivery (dashed line) is also transmitted to the information system (I-COD website 13) by a tracking system 45 which causes the information system to send a distribution command (the remittance advice) to the I-COD bank 12.

¹ The applicants intend that the phrase “one of the seller, purchaser, and delivery service system” when use in the application, including the claims, mean “one of the seller, purchaser, or delivery service system.”

Claim 21

Claim 21 is directed to a system for facilitating an international purchase transaction. The invention recited in Claim 21 is supported by the embodiment shown in Figure 2 of the Pat. App. An export service system (export brokerage 22) receives import/export information (dashed line) from the shipment order system 38 for clearing export. An import service system (import brokerage 23) also receives import/export information (dashed line) from the shipment order system 38 for clearing import. Similar to Figure 1 described above for Claim 1, the import service system can receive the hold and release commands. A local delivery system (2nd country local delivery system 21) receives the package from the import service system (double line from the import brokerage 23) and transmits verification of delivery (dashed line) via the tracking system 45 to the I-COD website 13. *See Pat. App., page 15, lines 10-13.*

The payment system of Claim 21 (I-COD bank 12 in Figure 2 of the Pat. App.) can receive payment from purchaser bank 27, send payment verification (notice of payment), receive a distribution command (remittance advice) and distribute payment (solid line) to the seller bank 28. *See Pat. App., page 15, lines 4-9 and 13-18.*

The electronic information system of Claim 21 receives the package shipment information (at shipment order system 38) and automatically (shipment notification (dashed line) to I-COD website 13) sends the hold package communication (dashed line from I-COD website 13) to the intermediate location (import brokerage 23). Thus, in Figure 2 of the Pat. App., the shipment notification triggering the hold request is sent by the shipment order system 38 directly to the I-COD website in response to entry of the shipment order.

The electronic information system (shipment order system 38 and I-COD website 13) sends the import/export information, the hold command and the release command as described above for the import/export service systems of Claim 21. The electronic information system (I-COD website 13) receives payment verification and transmits the distribution command as described above for the payment system of Claim 1.

Claim 25

Claim 25 is directed to a method of delivery. The invention recited in Claim 25 is supported by the embodiment shown in Figure 2 of the Pat. App. In Claim 25, the present invention includes receiving a package at a first location, such as a first country local delivery system 20, for example, as shown in Figure 2 of the Pat. App. Prior to the delivery system receiving the package, it has been prepared by the seller who may enter shipment order information associated with the package into a shipment order system 38 or an I-COD web site 13, as shown by box 104 in Figure 4 of the Pat. App. The delivery system commences shipment. *See* Pat. App., page 14, lines 12-21.

A hold command is placed into effect before the package can be shipped beyond an intermediate location. For example, for the embodiment claimed in Claim 25, in response to receiving shipment order information, a hold command associated with the package and requesting holding of the package at an intermediate location is transmitted, as shown by Figure 2 and box 105A in Figure 4 of the Pat. App. The hold command may be sent, for example, to an import brokerage 23 to hold the package being delivered to a different, second country. *See*, Pat. App., page 14, lines 23-25. The import brokerage receives the request, identifies the package and holds it pending a release command.

In fact, in some examples the intermediate location is in a second country. *See*, Pat. App., page 9, lines 24-26; and Claims 28. Moving a package to the intermediate location is a delivery stage in which payment is not guaranteed, differentiating it from the guaranteed payment of a conventional letter of credit obtained prior to shipping described in the Background of the Invention. *See* Pat. App., page 2, lines 4-5.

While under the hold command, the method includes moving the package toward the intermediate location, such as by a local delivery system 20 beginning delivery of the package, as shown by box 103 in Figure 4 of the Pat. App., or holding the package at the intermediate location. This latter instance could occur if the hold command is received by the import brokerage 23 while the import brokerage 23 has the package at the intermediate location. The method also includes receiving a payment associated with the package from the purchaser. For example, the purchaser 17 may provide payment instructions (as shown by box 106 in Figure 4

of the Pat. App.) to its bank to electronically transmit (as shown by box 107 in Figure 4 of the Pat. App.) funds from a funds account 27. *See*, Pat. App., page 15, lines 3-8.

The payment associated with the package is received and held in escrow, such as by being deposited in an I-COD bank account 26, as shown in Figure 2 of the Pat. App. A payment verification is sent, such as by the I-COD bank 12 notifying (as shown by box 108 in Figure 4 of the Pat. App.) the I-COD web site 13. *See*, Pat. App., page 15, lines 8-9. A release command is transmitted that releases the hold command associated with the package in response to the payment verification. For example, upon receipt of the payment notification, the I-COD web site 13 requests 109 the import brokerage 23 to release the package from the intermediate location for completion of delivery. *See*, Pat. App. page 15, lines 10-11.

The released package is then delivered to a location of the purchaser. For example, a second country local delivery service 21 picks up the package and delivers 110 the package to the purchaser 17. *See*, Pat. App. Figure 4 and page 15, lines 11-13. In that example, the second country local delivery service 21 obtains a delivery verification and sends it 111 to its tracking system 45. Such updates to the tracking system are provided electronically to update 112 the I-COD web site 13. *See*, Pat. App. Figure 4 and page 15, lines 14-15. In response to this delivery verification, payment is distributed out of escrow to the seller. For example, the I-COD web site 13 instructs the I-COD bank 12 to remit the payment to the seller's bank 28. The I-COD bank 12 withdraws the payment from the account 26 and remits 114 the payment, such as by direct deposit, to the seller's bank 28. *See*, Pat. App. Figure 4 and page 15, lines 16-19.

Claim 35

Claim 35 is directed to an electronic information system for coordinating delivery of a package. The invention recited in Claim 35 is supported by the embodiment shown in Figure 1 of the Pat. App.

Claim 35 recites a request system (I-COD website 13) for receiving requests to coordinate delivery and payment for a package. As described above for Claim 1, the request can be from the seller 16, purchaser 17 or delivery service system 11 and is separate from the shipping request. The request system is also configured to instruct a delivery service system to

deliver the package during a non-guaranteed payment delivery stage, i.e., before payment into escrow has been received. Figure 4 of the Pat. App. shows shipping commencement 103 occurring before transmission of the payment to the I-COD bank 107. This differentiates it from the guaranteed payment of a conventional letter of credit obtained prior to shipping described in the Background of the Invention. Pat. App., page 2, lines 4-5. The request system is also configured to transmit a coordinate request verification, such as the shipment notification (dashed line) sent by the shipment order system 10 to the I-COD website 13 of Figure 2 of the Pat. App.

A hold system, such as the I-COD website 13 of Figure 1 of the Pat. App., is configured to transmit a hold request (dashed line) to the delivery system 11. The hold request requests holding of the package at an intermediate location prior to release of the package from the intermediate location. Figure 4 of the Pat. App. shows hold for delivery request 105A prior to release of the package from the intermediate location in response to the release for delivery request 109.

Claim 35 includes a release system, such as the I-COD website 13, for sending the release package request (dashed line) to the import brokerage 23 in response to payment verification, such as the notice of payment (dashed line) in Figure 1 of the Pat. App.

Payment has not been received while the package is being delivered under the hold command. Thus, as recited in Claim 35, delivery during the non-guaranteed payment delivery stage is to the intermediate location. Claim 35 also recites delivery from the intermediate location to the purchaser during a guaranteed payment delivery stage. This is reflective of payment for the package being held in escrow (I-COD bank 12, Figure 1, the Pat. App.) for the seller while the package is en route to the purchaser (e.g., delivery to purchaser 110 after receipt of payment 108 and the release request 109, Figure 4, Pat. App.).

The release system (I-COD website 13) is also capable of transmitting a delivery notification, such as the remittance advice (dashed line) to the payment system (I-COD bank 12).

Claim 36

Claim 36 is directed to an electronic information system for coordinating delivery of a package. The invention recited in Claim 36 is supported by the embodiment shown in Figure 1 of the Pat. App. Support for the request system, hold system and release system from Figure 1 of the Pat. App. are described above for Claim 35.

Claim 36 also recites a payment system (I-COD bank 12) for receiving payment associated with the package from a funds account of the purchaser (solid line indicating payment from purchaser bank 27 to I-COD bank 12). The payment is held in escrow (account 26 in I-COD bank 12) while awaiting a notification of delivery of the package to the purchaser (verification of delivery (dashed line) sent from tracking system 45 to I-COD website 13). The payment system is capable of a distribution of funds (solid payment line) to a funds account of the seller (seller bank 2) in response to a notification of delivery, such as via remittance advice (dashed line). *See* Pat. App., page 11, lines 12-14.

Claim 37

Claim 37 is directed to an electronic information system for coordinating delivery of a package. The invention recited in Claim 37 is supported by the embodiment shown in Figure 1 of the Pat. App. A delivery service system 11 is capable of delivering the package (double line) from a first location (1st local country delivery system 20) to an intermediate location (import brokerage 23) and to a purchaser designated location (purchaser in second country 17). A delivery service communication system (tracking system 45) is configured to receive and transmit information for the delivery service.

As described above for Claim 1, the delivery service system is responsive to a hold command, release command and delivery verification as supported by Figure 1 of the Pat. App. As described for Claim 36 above, the payment system is also supported by Figure 1 of the Pat. App.

The control system (I-COD website and shipment order system 38) of Claim 37 is electronically connected to the delivery service communication system (dashed lines to tracking system 45 and delivery service system 11). The control system being configured to receive hold

requests, transmit a hold command, receive payment verification, transmit a release command and transmit a distribution command find support in the Pat. App. as described above for the information system of Claim 1.

Claim 38

Claim 38 is directed to a hub and spoke system of computers for controlling delivery of a package via a carrier from a seller to a purchaser. The invention recited in Claim 38 is supported by the embodiment shown in Figure 1 of the Pat. App. Claim 38 includes a facilitator computer (I-COD website and database 13) having a data memory with memory storage areas and being configured as a hub for communication with a plurality of spoke computers. The spoke computers include an order entry computer (the I-COD website 13), a carrier computer (tracking system 45) and an escrow bank computer (I-COD bank 12). *See* page 17, lines 8-27 of the Pat. App. for a discussion of how the present invention may be implemented by computer systems interconnected by networks.

The facilitator computer is adapted to communicate with the spoke computers to electronically receive (e.g., via the I-COD website 13) a request, and shipment order information associated with the request, to facilitate delivery of and payment for the package and store (I-COD database 13) at least a portion of the request and shipment order information in memory. *See* Pat. App., page 11, lines 30-31 and page 12 lines 1-3.

The facilitator computer is also adapted to electronically receive notice (dashed line to tracking system 45 and delivery service system 11) that transportation of the package from a source location (1st country local delivery system 20) toward an intermediate location (import brokerage 23) is under a package escrow command (hold package (dashed line)).

The facilitator computer is also adapted to electronically receive payment escrow verification indicating payment into the escrow account (notice of payment (dashed line) from I-COD bank 21 to I-COD website 13) and transmit a release command terminating the package escrow command (release package command (dashed line) from I-COD website to import brokerage 23). *See* Pat. App., page 11, lines 14-6, 9-11 and 15-17 describing electronic funds

payment into and out of escrow. *See* Pat. App., page 12, lines 12-15 describing an electronic release command terminating the package escrow command.

The facilitator computer is adapted to electronically receive, from the carrier computer, a delivery verification (verification of delivery (dashed line) from tracking system 45 to the I-COD website 13) and transmit a distribution command to the escrow bank computer (remittance advice (dashed line) from I-COD website 13 to I-COD bank 12). *See* Pat. App., page 12, lines 12-22 for description of electronic delivery verification and distribution command.

6. *Grounds of Rejection to be Reviewed on Appeal.*

Currently, pending Claims 1-3, 5-9, 11-21, 24, 25, 28, 29 and 31-45 stand rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,717,989 to Tozzoli et al. (“Tozzoli”) in view of U.S. Patent No. 6,865,559 to Dutta (“Dutta”).

7. *Argument.*

Disclosure of Tozzoli

Tozzoli is generally directed to a trade system for facilitating a transaction between a buyer, a seller and a funder. The funder guarantees payment for transactions processed by the trade system between an approved buyer and a seller which satisfy the funder’s predetermined criteria, as described at column 5, lines 36-39 of Tozzoli. In addition, the trade system verifies that each portion of the transaction properly relates to the purchase order and criteria established by the funder or trade system, which is referred to as a “filtering process,” as described at column 5, lines 39-42. If filtering is successful, the system generates payment instructions “at appropriate times,” as described at column 5, lines 42-43.

As will be described in more detail below, companies wishing to act as buyers and sellers must go through an application process with the funder. In particular, the funder compares buyer or seller profiles to a set of criteria, such as minimum annual revenue or years in business, as a condition of the buyer or seller gaining access to the system, as described at column 5, lines 46-60 of Tozzoli. Once the buyer or seller has access, the funder sets a credit limit for the buyer or seller, as described at column 5, lines 61-67.

After obtaining access to the system, a buyer may place orders to purchase goods from one or more sellers through the system. Each purchase order forms an electronic document and includes at least certain terms, such as a description of the goods, price, quantity and delivery times, as described at column 6, lines 32-37. The system filters purchase orders by comparing them to the screening criteria required by the funder and the trading system, as described at column 7, lines 34-38 of Tozzoli.

If the purchase order meets the criteria, the trade system can generate a payment guarantee on behalf of the funder, guaranteeing payment when the seller meets certain additional conditions, such as shipment of the goods by the seller. When the proposed purchase order meets the filtering criteria, the trade system forwards the purchase order in the form of data to the seller with an indication of the funder's payment guarantee, as described at column 7, lines 54-58 of Tozzoli.

The seller then creates electronic shipping documents including shipping instructions and a commercial invoice and filters the documents to ensure compliance with the original purchase order, as described at column 8, lines 47-56 of Tozzoli. Once the shipping documents are created, they are sent to the carrier or freight forwarder along with the goods, as described at column 8, lines 64-67. The carrier is provided a template by the system to create its own bill-of-lading which is screened against the original purchase order and then forwarded to the seller, the buyer and a buyer broker if involved, as described at column 9, lines 12-17 of Tozzoli.

The carrier then places the goods in transit to the buyer, as described at column 9, line 20 of Tozzoli. Once the goods are placed in transit in step **820** (as shown in Figure 3B of Tozzoli), a copy of the bill-of-lading is sent in step **860** (as shown in Figure 3C of Tozzoli) to the seller. Then, a funds transfer request is sent in step **870** to the buyer's bank and funds are transferred from the buyer's bank to the seller's bank in step **880**, such as via a conventional credit card network or a third party electronic document interchange network.

Once funds have been transferred, a notification of funds transfer is received in step **900** by the system and sent to the seller in step **910**. Then, the system transmits the data constituting the bill-of-lading to the customer in step **920** and authorizes the carrier to transfer possession of the goods to the buyer in step **930**. The buyer receives the bill-of-lading data in step **940** and

makes arrangements with the carrier to receive the goods, as described at column 17, lines 5-7 of Tozzoli.

Tozzoli describes an alternative payment mechanism at column 17, lines 17-25. In the alternative mechanism, the seller produces data representing an invoice and transmits it to the buyer for payment after submitting the bill of lading. The buyer then responds by creating a payment advice document advising the seller of the payment date and instructing a financial institution to transfer payment to the seller. In the paragraph disclosing the alternative payment mechanism, Tozzoli does not disclose details of the timing of payment by the buyer and transfer of the payment to the seller and, in particular, makes no mention of awaiting notification of receipt of the package by the buyer before distributing payment for the package to the seller.

If the same timing of the primary payment mechanism is used in the alternative payment mechanism, the seller of Tozzoli, as indicated in step **860** of Figure 3C, still has the bill-of-lading data long before the buyer receives the bill-of-lading data in step **940**. The seller, therefore, would be able to request payment with its bill-of-lading long before the buyer could obtain possession of the package with its bill-of-lading. No suggestion is made by Tozzoli that the payment could be withheld by the buyer until receipt of the package.

In yet another payment arrangement, the trade system transmits an instruction to the seller's bank to request payment and the seller's bank requests payment from the funder using the trade system, as described at column 17, lines 25-30 of Tozzoli. Similar to the first alternative payment arrangement, this second alternative does not describe the timing of the payment to the seller, disclosing only different parties requesting and receiving payment, much less placing a hold on delivery while awaiting payment into escrow and then awaiting notification of shipment to the buyer before distributing payment to the seller out of escrow.

Tozzoli also discloses that the trade system "may utilize data representing outside information in processing electronic documents" and cites a specific example "an embargo from one country to another may cause the system to automatically notify a carrier to hold a shipment, or may cause the system to reject shipping documents relating to the embargoed country." *See*, column 17, lines 30-36 of Tozzoli.

Tozzoli further discloses that in some cases the system may proceed without the funder's guarantee, but with a non-system avenue for a payment guarantee. "If the proposed purchase order does not meet the filtering criteria, the buyer may revise its terms, or, in some cases, the buyer may instruct the trade system to forward it [the purchase order] to the seller without the funder's payment guarantee and the parties may elect to proceed with the transaction using other non-system avenues for payment guarantees, and using the system as a document manager."

See, column 7, lines 64-67 and column 8, lines 1-3 of Tozzoli (emphasis added).

Disclosure of Dutta

Dutta discloses an inspection service that uses an inspection-based release of an escrowed payment, as shown in Figure 2A. The system includes financial services 200, buyer 202, seller 204 and an escrow service 206. The financial services include a financial infrastructure of banks, electronic payment services and credit card services. The escrow service holds a payment from the buyer in escrow until the successful receipt of goods by the buyer from the seller.

The process of Dutta is illustrated in Figures 2B and 2C. Referring to Figure 2B, the buyer and seller exchange information about the goods in a first step 220. In a step 222, the buyer or seller creates a new transaction with the escrow service. In a step 224, the buyer and seller agree to terms of the transaction within the escrow service. In a step 226, the buyer provides a payment to the escrow service. The escrow service then notifies the seller of the payment in step 227. The goods are inspected in a step 228 by the inspection service to verify that they match the description of the goods in the transaction recorded in step 224 by the escrow service. In a step 230, the inspection service certifies the goods to the escrow service and the goods are shipped to the buyer in a step 232.

Dutta states: "As a practical matter so that the inspection service can perform its responsibilities efficiently, it is assumed that the inspection or certification of the goods occurs at the same location that the shipping party releases the goods, such as at a parcel delivery company, an overnight delivery company, a general courier, or a private mailbox provider." *See, column 8, lines 23-28 of Dutta.*

Dutta does discuss inspecting the goods at a location other than that at which the seller releases physical possession of the goods, but consistently refers to inspection as occurring prior to shipment. “In an attempt to reduce fraudulent behavior by the buyer or the seller, the inspection service inspects the goods prior to shipment but preferably at the point of shipment, i.e., the points at which the buyer and/or seller release physical possession of the goods, depending upon which direction the goods are being shipped.” “In yet another embodiment, the inspection service is performed at a location that is separate from the point of shipment, but the goods are somehow stamped or sealed in a tamper-proof manner with an inspection service identifier to prevent the shipping party from tampering with the goods after inspection/certification [sic] and to provide evidence to the receiving party that the goods had been inspected/certified prior to shipment.” See, column 8, lines 4-10; 51-58 of Dutta (emphasis added). The focus in Dutta is on “shipment preparation.”

In addition, Dutta teaches that inspection by the delivery company is less desirable because of the risk of a non-objective assessment of the goods. “The inspection or certification of the goods may be performed by the delivery company, if necessary, although it should be noted that the delivery company may not be objective as the delivery company incurs liability by attempting to deliver the goods in their original condition.” See, column 8, lines 34-39 of Dutta. Therefore, Dutta does not disclose inspection after shipment commences, and suggests that these shipment preparations are best implemented prior to shipping commencing. Dutta characterizes the described process as “insert[ing] inspection service 208 into the transaction” (column 7, lines 26-30), a philosophy not calculated to reduce delays before a package can be shipped.

Referring to Figure 2C of Dutta, after step 230, the system determines if the goods are acceptable to the buyer at step 234. If the goods are acceptable, the buyer notifies the escrow service of its acceptance in a step 236. Then, the escrow service provides payment to the seller in a step 238, and the goods are ready for shipment.

A. Claims 25, 28, 29, 31-34 and 38-45 are Patentable

1. *Description of Claim 25*

Independent Claim 25 of the present application recites the following²:

- Receiving a package at a first location;
- Receiving shipment order information on the package;
- Transmitting a hold command associated with the package in response to receiving the shipment order information;
- Moving the package toward an intermediate location or holding the package at the intermediate location while under the hold command;
- Receiving a payment associated with the package from the purchaser after moving or holding the package under the hold command;
- Holding the payment in escrow and transmitting a payment verification;
- Transmitting a release command and releasing the hold command associated with the package in response to payment verification;
- Delivering the package to a purchaser location;
- Receiving a delivery verification; and
- Distributing payment out of escrow to the seller in response to the delivery verification.

² It should be noted that the above-listed steps are not necessarily in any particular order unless specifically identified as such.

Notably, Claim 25 recites 1) transmitting the hold command to hold the package at the intermediate location in response to receiving a shipment order and pending receipt of a release command, 2) moving the package toward, or holding the package at, the intermediate location while under the hold command and 3) releasing the hold command and the package from the intermediate location in response to a verification of payment into escrow. This allows the carrier to commence delivery of the package to the intermediate location without awaiting an upfront payment or payment guarantee. But the hold command ensures that the package will not travel the entire distance to the purchaser location if payment is not made.

2. *Rejection of Claim 25 in the final Office Action*

In the final Office Action, it was alleged that Tozzoli teaches 1) transmitting payment verification, 2) shipping goods to an intermediate import broker location, 3) payment after receipt of goods by the carrier, 4) the buyer taking receipt of goods from an intermediate location and 5) holding the goods at the intermediate location. It was admitted that Tozzoli does not disclose holding the payment in escrow, releasing shipment from an intermediate location and payment out of escrow to the seller.

Dutta was cited as teaching the optional use of an escrow payment service, wherein the seller ships upon notification of a buyer making payment into escrow. *See*, the Office Action, page 8, last paragraph and page 9, first paragraph. Dutta was also cited as teaching an intermediate location performing shipment preparation services, including holding the shipment until release conditions apply. In the Office Action, it was further alleged that these shipment conditions could be payment into escrow. *See*, the Office Action, page 9, first paragraph.

It was also alleged that it would have been obvious to one of skill in the art under 35 U.S.C. §103(a) to modify the method of Tozzoli to implement an escrow payment service with shipment holding at an intermediate location until a release condition taught by Dutta occurs. Dutta was lastly cited as teaching distributing payment out of escrow to the seller. *See*, the Office Action, page 9, second paragraph.

3. Summary of Applicant's Arguments that Claim 25 is Patentable

Even if it would have been obvious to combine (which it is not) the teachings of Tozzoli and Dutta, the resulting system would not include the following features of the method claimed in Claim 25:

- Moving the package in transit toward the intermediate location which is en route to the purchaser before funds have been guaranteed or placed into escrow.

To the contrary, Dutta teaches nothing other than receiving payment into escrow before the goods are moved, even before they go to a station for inspection or shipment preparation.

- Releasing the package from a hold condition in response to notice that funds have been placed into escrow.

To the contrary, Dutta teaches only releasing the goods in response to passing inspection, the payment having been received in escrow previously.

Furthermore, **Tozzoli** fails to teach or suggest the following elements of Claim 25:

- Transmitting a hold command associated with the package in response to receiving the shipment order information;
- Moving the package toward an intermediate location or holding the package at the intermediate location while under the hold command;
- Receiving and holding a payment associated with the package from the purchaser; and transmitting a payment verification;
- Transmitting a release command and releasing the hold command associated with the package in response to payment verification;
- Distributing payment out of escrow to the seller in response to a delivery verification.

Tozzoli is directed to a system that ensures payment through use of a funder that requires an up-front credit approval and application process. Not only is the credit process not a payment into escrow, the credit approval and application occurs prior to shipment of the package, slows the shipping process and blocks transactions by those unwilling or unable to meet credit

approvals. *See, Up-front Credit Approval Process Slows or Blocks Transactions* in the detailed discussion of Tozzoli below.

Tozzoli discloses a hold command instituted in response to an embargo, but not a hold command triggered by receipt of shipment order information, as recited in Claim 25. Tozzoli discloses a scenario in which an embargo might occur and cause the system to notify a carrier to hold the shipment. However, this embargo hold is triggered by “outside information” related to a rare event extrinsic to Tozzoli’s system; not by the routine entry of intrinsic shipment order information. *See, Hold Command Not Triggered by Receipt of Shipment Order Information* in the detailed discussion of Tozzoli below.

Tozzoli further makes no suggestion to release the hold command associated with an embargo on condition of a payment into escrow. *See, Hold Command Not Released Upon Notice of Payment Into Escrow* in the detailed discussion of Tozzoli below.

Tozzoli also fails to disclose payment out of escrow conditioned upon verification of delivery of the package to a purchaser. In Tozzoli, payment is made directly by the buyer to the seller and can occur prior to transfer of the package. *See, Seller Paid Before Transfer of Package to Buyer and Payment for Package Not Out of Escrow* in the detailed discussion of Tozzoli below.

Dutta fails to overcome Tozzoli’s inability to teach or suggest the invention as recited in Claim 25. Dutta discloses a system in which an escrow payment for goods is made, but the escrow payment is received up front prior to inspection and then shipping of the goods. *See, Requires Up Front Payment, Prior to Inspection and Shipping* in the detailed discussion of Dutta below.

Further, Dutta discloses holding the goods for inspection by a third party, but only prior to shipment (such as at the place where the shipping party releases the goods to a parcel delivery company, column 8, lines 24-27) and not at some intermediate location that is along the route to the purchaser. This delays deliberate, positive progress in the shipment of the goods, unlike the invention as described in Claim 25 of the present application. The claim term “intermediate location” does not encompass a location to which goods are sent for pre-shipment activity. *See,*

Up-front Inspection Location is Not an Intermediate Location in the detailed discussion of Dutta below, and the discussion of the interpretation of that claim term above.

Dutta's shipment from the inspection location is conditioned upon successful inspection, not on payment into escrow. Payment into escrow must be made up front in Dutta and is no longer needed at the time of inspection. *See, Shipment from Inspection Location Not Conditioned on Payment into Escrow* in the detailed discussion of Dutta below.

Even if a combination of Dutta and Tozzoli were (improperly) made, the escrow payment and inspection of Dutta with Tozzoli would still not teach or suggest the present invention because in both Dutta and Tozzoli, payment into escrow or payment guarantee must occur up front before shipping. The present invention as recited in Claim 25, on the other hand, allows shipping of the package to commence while awaiting payment.

In addition, neither Dutta's inspection location, nor Tozzoli's embargo location, condition release of a hold command on delivery of a package on receipt of payment. At best a combination of Dutta and Tozzoli would condition release of a package for further delivery upon successfully meeting the requirements of inspection, or some extrinsic information, such as removal of an embargo. Neither of them suggests release of a hold command conditioned upon payment into escrow, or other guarantee of payment.

4. *Tozzoli Doesn't Teach or Disclose Claim 25*

There are several fundamental differences between the disclosure of Tozzoli and the present invention as recited in Claim 25. For at least the reasons below, Tozzoli fails to teach or suggest the present invention as recited in Claim 25.

a. Up-front Credit Approval Process Slows or Blocks Transactions

The system of Tozzoli requires a detailed, up-front credit application process. This slows the transaction down and requires the participants to have a credit history to participate. The effort involved in the credit application process would deter most small transactions. Further, the system of Tozzoli has a credit limit for the participants which would prohibit larger transactions.

Claim 25 of the present invention, in contrast, recites 1) moving the package toward, or holding the package at, the intermediate location under a hold command, 2) receiving a payment associated with the package and then 3) releasing the hold command in response to receipt of the payment. Therefore, in Claim 25, the package has been received at the first location, the shipping component of the transaction is initiated under the hold command and the package can make it as far as the intermediate location, allowing parallel efforts at shipping and processing of the payment without fear of the package traveling past the intermediate location. Also, the method of Claim 25 protects the seller without the need for a credit application process specific to the value of the package, which can discourage small potential users of the system. In combination, these aspects facilitate a quick, confident delivery of the package by the seller and participation by a buyer with little or no credit history.

Tozzoli at one point (column 7, lines 64-67 and column 8, lines 1-3) discloses an instance where shipping occurs without a funder guarantee. However, this is when the purchase order itself does not meet the filtering criteria. To submit the purchase order, the buyer still needs to have access to the system, which requires the up front credit check associated with the goods being shipped.

b. Hold Command Not Triggered by Receipt of Shipment Order Information

It was alleged in the Office Action that Tozzoli discloses the hold command of Claim 25. Tozzoli suggests that outside information, such as the embargo, may be used to hold shipment of a package or reject documents relating to that country. However, an embargo is only a rare event and does not occur as a result of entry of shipment order information. The embargo is information associated with an unexpected event, not a normal request within the process, such as submission of shipment order information.

In claim 25, the only condition to starting the hold is to choose the service, i.e., by entry of the shipment order information. In Tozzoli's embargo scenario, due to the rarity of an outside event such as the embargo, the hold command would be unpredictable and would not happen the majority of the time a shipment is made. As a result, Tozzoli does not teach or suggest a hold command triggered by receipt of shipment order information as recited by Claim 25.

c. Hold Command Not Released Upon Notice of Payment Into Escrow

Clearly there is no teaching in Tozzoli to release a hold command based on payment into escrow. There is a credit guarantee in Tozzoli, not an escrow payment. In any case, receipt of credit approval in Tozzoli does not release a hold command.

There is no suggestion in Tozzoli that “outside information” relating to the start or end of the embargo scenario would include payment information. In fact, such information is accounted for *inside* the system, as the system handles payment. An embargoed country would have no interest in, nor would it be expected to provide, information on payment. Further, the payment has already been accounted for with the up-front guarantee by the funder prior to shipment. Payment, therefore, is no longer a concern to the system of Tozzoli once it reaches the embargo location.

Tozzoli suggests that the participants in the process can opt out of its payment system and use other “non-system” avenues for payment guarantee. However, Tozzoli fails to suggest what such payment systems might be and makes no particular suggestion that use of an escrow payment might be beneficial. Further, there is no suggestion in Tozzoli that payment might trigger release of a hold command on a package. Timing suggestions in the other embodiments of Tozzoli suggest that payment should be guaranteed up front with credit, and not placed in escrow. This lack of disclosure or teaching of escrow is admitted in the Office Action mailed June 15, 2005 at page 8, last paragraph. “Tozzoli . . . does not disclose holding the payment in escrow and releasing the payment from an intermediate location.”

The mere passing suggestion, therefore, of an embargo scenario or holding a package, without the associated details of holding the package in response to entry of shipment information and release of the hold command upon receipt of payment into escrow is insufficient to teach or suggest Claim 25 of the present invention.

d. Seller Paid Before Transfer of Package to Buyer

In Tozzoli, payment is transferred to the seller’s bank in step **880** before transfer of the package to the buyer is authorized in step **930**, and before the buyer is transferred the bill-of-

lading data in step 940. Therefore, the seller in Tozzoli receives payment many steps before the buyer receives the package, exposing the buyer to the risk of paying but still not receiving the goods. In Claim 25 of the present application, payment to the purchaser is in response to delivery verification, protecting the purchaser by ensuring receipt of the goods before payment out of escrow.

e. Payment for Package Not Out of Escrow

The payment in Tozzoli is not escrowed because payment is transferred directly from the buyer's bank to the seller's bank.

5. *Dutta Doesn't Teach or Disclose Claim 25*

As described below, Dutta fails to teach or suggest Claim 25 of the present application.

a. Requires Up Front Payment, Prior to Inspection and Shipping

Dutta discloses a system in which payment, in step 226, occurs prior to receipt of the goods and inspection of the goods in step 228, and later shipment of the goods. Notably, this is similar to the shortcoming of Tozzoli, wherein a payment guarantee through credit approval and a funder is secured up front, prior to shipment of the package. Dutta's teaching of the importance and advantages of an up-front inspection of the goods, before shipment of the goods, further delays shipment of the goods, just like Tozzoli's pre-shipment payment guarantee.

Claim 25 of the present invention, in contrast, recites 1) receiving the package at a first location and moving a package toward, or holding the package at, the intermediate location under a hold command, 2) receiving a payment associated with the package and then 3) releasing the hold command in response to receipt of the payment. Dutta's lack of coordination of payment with shipment does not provide the advantage of efficient parallel processing of payment and shipment, with the hold command guarding against delivery past the intermediate location without receipt into escrow of payment for the package.

b. Up-front Inspection Location is Not an Intermediate Location

Dutta discloses holding the goods for inspection by a third party, but only teaches handling the goods prior to shipment and not at a downstream intermediate location that is en route to delivery to the purchaser, reached after shipment commences. If the inspection location were considered to be the intermediate location, then the step in Claim 25 of the delivery system receiving the package at a first location would have been skipped. This eliminates a step of the claimed method in which the delivery system gains control of the package and begins shipment of the package toward the intermediate location and the purchaser. Nor does a carrier "escrow" the package pursuant to a hold command in Dutta after shipment commences.

c. Shipment from Inspection Location Not Conditioned on Payment into Escrow

Even if Dutta were (erroneously) considered to teach inspection of the goods at an intermediate location, the payment for the goods has already been made by the time the inspection location has been reached. Dutta discloses that shipping of the package is conditioned upon a successful inspection of the goods, not upon payment by the buyer into escrow, since payment into escrow must be made before the goods reach the inspection location.

6. *Tozzoli and Dutta in Combination Do Not Teach or Disclose Claim 25*

In arguing against the obviousness rejection in the final Office Action, Applicant once again calls the Board's attention to Claim 25, and in particular, the coordination of the shipment under the hold command, the payment into escrow and the release of the hold command. Claim

25 of the present invention recites 1) receiving the package at a first location and moving the package toward, or holding the package at, the intermediate location under a hold command, 2) receiving a payment associated with the package and then 3) releasing the hold command in response to receipt of the payment.

Dutta discloses use of an inspection location but, as described above, this inspection location is not the same as an intermediate location because it is utilized prior to shipment of the goods. Shipping of the goods by the carrier in Dutta does not occur prior to inspection of the goods (because the package has not yet been received by a delivery service system), and release from the inspection location is not conditioned upon payment into escrow. Dutta does disclose that inspection may be performed by a delivery company, but does not suggest that inspection would be performed at any time other than before or at the point of shipment.

In fact, Dutta suggests that the delivery company is not the best option for performing inspection because the inspection company incurs liability by attempting to deliver the goods in their original condition. *See*, column 8, lines 34-39 of Dutta. Dutta appears to be suggesting that the delivery service company would have an incentive to underreport when the goods are in excellent condition to guard against blame for any damage occurring after shipping commences. If Dutta's system were (incorrectly) extended to inspection at an intermediate location, such a situation would be worsened because shipping by the delivery company would have occurred before inspection. The delivery service company could then (due to its liability) fail to disclose damage it caused by poor handling, completely disrupting a primary purpose of Dutta of establishing the condition of the goods prior to shipping to protect the seller.

Payment into escrow is required up-front, prior to inspection of the goods in Dutta and shipment of the package is conditioned on successful inspection by Dutta, not payment for the goods. Similarly, in Tozzoli, credit approval for the funder guarantee is required before shipment of the package. Although Dutta's payment is a cash payment, and doesn't require up-front credit approval like Tozzoli, the payment into escrow is still up front, prior to shipping.

As a result, replacing Tozzoli's credit-based payment system with Dutta's escrow payment system would at best result in a system having steps in the following order 1) up front payment into escrow prior to shipment, 2) inspection of the goods prior to shipment, 3) shipping

of the goods, and then 4) payment out of escrow upon acceptance of the goods. To the extent such a combined system would offer some protection to both the seller and the purchaser, it would do so at the cost of significant delay prior to shipment. In contrast, the present invention allows a payment guarantee process (payment escrow) to proceed at the same time as shipment to an intermediate location.

As described above, Tozzoli suggests shipment of a package without a funder guarantee and instead using non-system avenues for payment guarantees. There is no explicit or implicit suggestion by Tozzoli that the “non-system avenues” would include payment into escrow, or that an escrow, or other guaranteed, payment for the goods by the buyer could be coordinated with holding the package at an intermediate location. Again, the combination of Dutta and Tozzoli would still require an up-front payment into escrow.

As a result, there is no teaching or suggestion in either Dutta or Tozzoli that payment into escrow should occur after receipt of a package at a first location and shipping toward an intermediate location en route to the purchaser, or that inspection should be at an intermediate location after shipping and that a release from the intermediate location for further shipping should be conditioned upon the payment into escrow or that such elements should be combined with payment release upon proof of delivery. None of the remaining cited references overcomes the failure of Tozzoli and Dutta to teach or suggest the present invention as recited in Claim 25.

7. *Dependent Claims 28, 29, 31-34 and 42-45*

Each of Claims 28, 29, 31-34 and 42-45 depends from and further patentably distinguishes Claim 25 which, as described above, is patentable. For example, Claims 28 and 32 describes clearing the package for import to the intermediate location, indicating that the intermediate location is in a country foreign to the country of the first location. Claims 28, 29, 31-34 and 42-45 are therefore also patentable.

B. Claims 21 and 24 are Patentable

Independent Claim 21 of the present application recites a delivery system capable of performing the method described above for Claim 25. In particular, Claim 21 recites

automatically generating a hold command in response to receiving package shipping information, thus avoiding the need to separately request holding of the package.

In Tozzoli's embargo scenario, due to the rarity of an outside event such as the embargo, the hold command would be unpredictable and would not happen each time a shipment is made at the time the shipment is requested. As a result, Tozzoli does not teach or suggest a hold command automatically triggered by receipt of shipment information. For these additional reasons, and the reasons stated above for Claim 25, Claim 21 is patentable over Tozzoli, Dutta and the remaining cited references.

Claim 24 depends from and further patentably distinguishes Claim 1 which, as described above, is patentable. Claim 24 is therefore also patentable.

C. Claims 1-3, 5-9, 11-20, 35, 36, 37 and 38 are Patentable

Claims 1 and 35-38 conduct, support or facilitate embodiments of the invention that read upon Figure 1 of the Pat. App. These claimed systems provide the hold command in a manner not tied to the initiation of the shipment process. In the system of Claim 1, for example, the information system transmits the hold command in response to a request from the seller, purchaser, or delivery service system. In Claims 35 and 36, the electronic information systems include a request system configured to receive a coordination request and transmit a coordination request verification, and a hold system configured to receive the coordination request verification and, in response, transmit a hold request. In Claim 37, the delivery service system includes a control system configured to receive requests and, in response to the requests, transmit a hold command. Claim 38 includes a facilitator computer for receiving a request to facilitate delivery and payment for a package and notice that the package is being transported under a hold command. Therefore, in embodiments covered by Claim 1 and by Claims 35-38, the hold command may be initiated after shipping begins, as shown in Figure 1 of the Pat App.

As noted above, there is no teaching or suggestion in either Dutta or Tozzoli that payment into escrow should occur after shipping commences, or that inspection should be at an intermediate location after shipping and that a release from the intermediate location for further shipping should be conditioned upon the payment into escrow or that such elements should be

combined with payment upon proof of delivery. Further, Dutta and Tozzoli do not teach or suggest a system in which shipping of a package can commence before entry of a hold or package escrow command, as recited in Claims 1 and 35-38. Tozzoli describes holding of a package for an embargo, but this is a rare, after-arising emergency not associated with payment for the package and not as a matter of routine operation. Dutta holds the package for inspection prior to shipping, and therefore no shipping occurs before the inspection. None of the remaining cited references overcomes the failure of Tozzoli and Dutta to teach or suggest the present invention as recited in Claims 1 and 35-38.

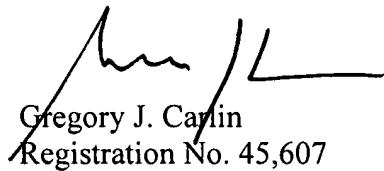
Claim 35 further emphasizes that initial shipment of the package occurs during a non-guaranteed payment delivery stage to the intermediate location (so that positive progress is made along the shipping route) and that delivery from the intermediate location to the purchaser is during a guaranteed payment delivery stage. As discussed above, both Tozzoli and Dutta, alone and in combination, only teach or suggest an up-front guarantee of payment before shipping of the package commences.

Dependent Claims 2-3, 5-9 and 11-20 depend from and further patentably distinguish Claim 1 and are therefore also patentable. For example, Claim 6 recites the first location being in a first country and the intermediate location being in a second country.

CONCLUSION

The language of the Applicant's claims recite systems and methods that protect the seller from non-payment by the purchaser in a manner that avoids the need for pre-shipment credit approvals or payment guarantees and allows shipment of the goods to begin immediately while also protecting the purchaser with a payment escrow that is not released to the seller until the holder of the escrowed funds receives proof of delivery. The cited art requires pre-shipment payment or credit approval and clearly misses the point of the present invention. For at least the foregoing reasons, Applicant respectfully requests that the rejections be reversed.

Respectfully submitted,

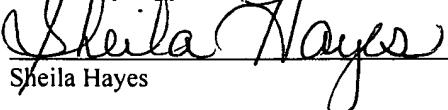


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Date of Deposit August 30, 2005

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Sheila Hayes

8. ***Claims Appendix.***

1. A delivery system for facilitating a transaction between a seller having a funds account and a purchaser having a funds account, wherein the seller has agreed to exchange one, or more, packages of goods for a payment from the purchaser, the delivery system comprising:

a delivery service system capable of delivering the package from a first location to an intermediate location and capable of receiving a hold command associated with the package and responsive to the hold command holding the package at the intermediate location pending receipt of a release command, and responsive to the release command releasing the package for delivery to the purchaser, wherein removal of the hold command is indicative of receipt of the payment associated with the package into escrow;

a payment system configured to receive the payment associated with the package from the purchaser's funds account, to hold the payment in escrow on receipt, to transmit payment verification information in response to receiving the payment in escrow and to distribute the payment from escrow to the seller's account in response to a distribution command, wherein receipt of the distribution command is indicative of delivery of the package to the purchaser; and

an information system configured to receive a request from one of the seller, purchaser and delivery service system and configured to automatically transmit the hold command to the delivery service system responsive to the request and to receive the payment verification information from the payment system,

the information system also configured to transmit the release command to the delivery system in response to receiving the payment verification information thereby releasing the package for delivery to the purchaser when payment is made into escrow,

the information system further configured to receive a delivery verification information confirming delivery of the package to the purchaser and to transmit the distribution command to the payment system in response to receipt of the delivery verification information.

2. A delivery system of Claim 1, wherein the delivery service system is capable of delivering the package to a purchaser designated location after releasing the package.

3. A delivery system of Claim 2, wherein the purchaser designated location is a purchaser location, and wherein the delivery service system is capable of transmitting the delivery verification information to the information system after delivery to the purchaser location.

4. (Cancelled)

5. A delivery system of Claim 3, wherein the systems are capable of electronically transmitting and receiving their respective information and commands.

6. A delivery system of Claim 1, wherein the first location is in a first country and the intermediate location is in a second country, and the delivery service system further comprises an export brokerage in the first country and an import brokerage in the second country.

7. A delivery system of Claim 6, wherein the export brokerage is capable of clearing export of the package out of the first country and the import brokerage is capable of clearing import of the package into the second country and holding the package at the intermediate location in response to the hold command.

8. A delivery system of Claim 7, wherein the delivery services system further includes a local delivery system that delivers the package from the intermediate location to a purchaser designated location.

9. A delivery system of Claim 8, wherein the purchaser designated location is a purchaser location and wherein the delivery service system is capable of transmitting the delivery verification information after delivery to the purchaser location.

10. (Cancelled)

11. A delivery system of Claim 9, wherein the systems are capable of electronically transmitting and receiving their respective information and commands.

12. A delivery system of Claim 1, further comprising a shipment order system that is configured to record shipment order information submitted by the seller and to transmit the shipment order information to the delivery service system.

13. A delivery system of Claim 12, wherein the shipment order information includes export and import information and wherein the delivery service system is configured to receive the shipment order information from the shipment order system and is capable of clearing export of the package out of a first country having the first location using the shipment information and import of the package into a second country having the intermediate location using the shipment information.

14. A delivery system of Claim 13, wherein the import and the export information includes at least one of a value-of-goods information, a transaction reference number or a currency of payment.

15. A delivery system of Claim 12, wherein the shipment order system is configured to transmit notification information to the purchaser in response to receiving the shipment order information.

16. A delivery system of Claim 15, wherein the notification information includes a description of the packaged goods and payment instructions.

17. A delivery system of Claim 16, wherein the payment system includes an account and wherein the payment instructions include an account identification number and an amount of the payment.

18. A delivery system of Claim 15, wherein the information system includes a secure Internet site having payment instructions and wherein the notification information includes a

description of the packaged goods and a link to the payment instructions on the secure Internet site.

19. A delivery system of Claim 18, wherein the payment system includes an account and wherein the payment instructions include an account identification number and an amount of the payment.

20. A delivery system of Claim 18, wherein the systems are capable of electronically transmitting and receiving their respective information and commands.

21. An international cash-on-delivery system for facilitating an international transaction between a seller having a funds account and a purchaser having a funds account, wherein the seller has agreed to exchange one, or more, packages of goods for a payment from the purchaser, and wherein the seller is in a first country having a first department of commerce and the purchaser is in a second country having a second department of commerce, the international cash-on-delivery system comprising:

an export service system capable of receiving a package shipment information and using the package shipment information to interact with the first department of commerce to clear export of the package out of the first country;

an import service system capable of receiving the package shipment information and using the package shipment information to interact with the second department of commerce to clear import of the package into the second country, the import service system responsive to a hold command associated with the package to hold the package pending receipt of a release command and responsive to the release command to release the package;

a local delivery system configured to receive the released package from the import service system, to deliver the package to the purchaser and to transmit a delivery verification information to the information system;

a payment system configured to receive the payment associated with the package from the purchaser's funds account, to hold the payment in escrow pending receipt of a distribution command, to communicate payment verification information, and

further configured to distribute the payment to the seller's funds account in response to receipt of the distribution command; and

an electronic information system configured to receive the package shipment information from one of the seller and the purchaser and to transmit the shipment information to the export service and the import service, the information system further configured to transmit the hold command to the import service system in response to receiving the package shipment information and prior to release of the package by the import service system, and to receive the payment verification information from the payment system indicating payment into escrow, the information system also configured to transmit the release command to the import service in response to receiving the payment verification information, and

further configured to transmit the distribution command to the payment system in response to receipt of the delivery verification information thereby controlling movement of the shipping information, the payment verification information and the package so as to complete the international transaction between the purchaser and the seller.

22-23. (Cancelled)

24. An international cash-on-delivery system of Claim 21, further comprising a shipment order system that is configured to record the shipment order information submitted by the seller and to transmit the shipment order information to the information system.

25. A method of delivery for facilitating a transaction between a seller having a funds account and a purchaser having a funds account, wherein the seller has agreed to exchange one, or more, packages of goods for a payment from the purchaser, the method of delivery comprising:

receiving the package at a first location using a delivery system;

receiving shipment order information on the package using an information system;

responsive to receiving the shipment order information transmitting a hold command to the delivery system using the information system, said hold command associated with the package received at the first location, and instructing the delivery system to hold the package at an intermediate location pending receipt of a release command;

while the package is under the hold command, at least one of moving the package toward the intermediate location or holding the package at the intermediate location, using the delivery system;

receiving the payment associated with the package from the purchaser's funds account using a payment system, holding the payment in escrow and transmitting a payment verification to the information system;

in response to receiving the payment verification, transmitting the release command to the delivery system using the information system;

while the payment is held in escrow, releasing the hold command in response to the release command;

while the payment is held in escrow, delivering the package to a purchaser location after releasing the package and receiving a delivery verification at the information system; and

transmitting a distribution command to the payment system using the information system response to receiving the delivery verification and distributing the payment out of escrow to the seller's funds account using the payment system.

26-27. (Cancelled)

28. A method of delivery of Claim 25, further comprising holding the package at the intermediate location using the delivery system in response to the hold command, and

clearing the package for export from the first location using an export brokerage of the delivery system and clearing the package for import to the intermediate location using an import brokerage of the delivery system before moving the package to the intermediate location.

29. A method of delivery of Claim 28, wherein delivery of the package to the purchaser location includes using a local delivery system of the delivery system after releasing the package.

30. (Cancelled)

31. A method of delivery of Claim 25, further comprising recording shipment order information using a shipment order system and transmitting the shipment order information to the delivery system.

32. A method of delivery of Claim 31, further comprising holding the package at the intermediate location using the delivery system in response to the hold command, and

wherein the shipment order information includes export and import information and further comprising clearing the package for export from the first location using the export information and clearing the package for import to the intermediate location using the import information before moving the package to the intermediate location.

33. A method of delivery of Claim 31, further comprising transmitting notification information to the purchaser using the shipment order system after receiving the shipment order information.

34. A method of delivery of Claim 33, wherein the notification information includes a description of the package and a link to payment instructions on a secure Internet site of the information system.

35. An electronic information system for coordinating delivery of a package, or packages, of goods by a seller using a delivery service system and payment for the package by a purchaser using a payment system, the information system comprising:

 a request system capable of receiving requests from one of the seller, the purchaser and the delivery service system requesting coordination of the delivery of, and payment for, the package, and

 configured to instruct the delivery service system to deliver the package during a non-guaranteed payment delivery stage, and

 the request system also configured to transmit a coordination request verification;

 a hold system capable of receiving the verification of the coordination request and automatically transmitting a hold request associated with the package to the delivery service system prior to release of the package from an intermediate location and in response to receipt of the verification of the coordination request, the hold request requesting the delivery service system to hold the package at the intermediate location pending receipt of a release request; and

 a release system capable of receiving a payment verification transmitted by the payment system, the payment verification verifying payment into escrow by the purchaser for the package, and the release system capable of transmitting the release request to the delivery system in response to receipt of the payment verification, the release request requesting the delivery service system to release the package for delivery to the purchaser

 wherein delivery to the purchaser occurs during a guaranteed payment delivery

stage, and

wherein delivery during the non-guaranteed delivery stage is to the intermediate location and delivery during the guaranteed delivery stage is from the intermediate location to the purchaser,

said release system further capable of transmitting a delivery notification to the payment system, said delivery notification indicating delivery of the package to the purchaser and configured to trigger payment of the seller for the package by the payment system.

36. An electronic information system for coordinating delivery of a package, or packages, of goods by a seller using a delivery service system and payment for the package by a purchaser, the information system comprising:

a request system capable of receiving requests from one of the seller, the purchaser and the delivery service system requesting coordination of the delivery of, and payment for, the package, the request system also configured to transmit a coordination request verification;

a hold system capable of receiving the verification of the coordination request and automatically transmitting a hold request to the delivery service system in response to receipt of the verification of the coordination request and prior to release of the package from an intermediate location for delivery to the purchaser, the hold request requesting the delivery service system to hold the package at the intermediate location pending notification of a release request;

a payment system capable of receiving payment associated with the package from a funds account of the purchaser, holding the payment in escrow a notification of delivery of the package to the purchaser and transmitting the payment verification in response to receipt of the payment from the funds account of the purchaser,

said payment system further capable of distributing funds to a funds account of the seller in response to the notification of delivery of the package to the purchaser;

a release system capable of receiving the payment verification transmitted by the account system and verifying payment by the purchaser for the package, the release system capable of transmitting the release request to the delivery service system in response to receipt of the payment verification, the release request requesting the delivery service system to release the package for delivery to the purchaser; and

a delivery notification system capable of notifying the payment system of receipt of the package by the purchaser.

37. A delivery system for facilitating a transaction between a seller having a funds account and a purchaser having a funds account, wherein the seller has agreed to exchange one, or more, packages of goods for a payment from the purchaser, the delivery system comprising:

a delivery service system capable of delivering the package from a first location to an intermediate location, and from the intermediate location to a purchaser designated location,

a delivery service communication system configured to receive and transmit information for said delivery service;

said delivery service system responsive to a hold command received via said delivery service communication system to hold the package at the intermediate location pending receipt of a release command and also responsive to the release command received via said delivery service communication system to release the package for delivery of the package to the purchaser designated location, said delivery service communication system being further capable of transmitting delivery verification information after delivery of the package by the delivery service to the purchaser designated location;

a payment system configured to receive and hold in escrow the payment associated with the package from the purchaser's funds account pending receipt of a distribution command and to transmit payment verification information in response to receipt of the payment, said payment system further configured to distribute the payment to the seller's account in response to the distribution command; and

a control system electronically connected to the delivery service communication system and the payment system via at least one electronic network, said control system configured to receive requests from one of the seller, purchaser and delivery service and automatically transmit the hold command over the network to the delivery service in response to the requests and prior to release of the package from the intermediate location, said control system further configured to receive the payment verification information over the network from the payment system and transmit the release command over the network to the delivery service in response to receiving the payment verification information, and said control system further configured to transmit the distribution command to the payment system in response to receipt of the delivery verification information.

38. A hub and spoke system of computers for controlling delivery of a package via a carrier from a seller to a purchaser, and for controlling payment for the package by the purchaser to the seller from a funds account controlled by a purchaser bank computer, the system comprising:

a facilitator computer having a data memory comprising one or more memory storage areas, said facilitator computer being configured as a hub for communication with a plurality of spoke computers, the spoke computers comprising:

an order entry computer,

a carrier computer, and

an escrow bank computer,

the facilitator computer being adapted to communicate with said spoke computers to:

electronically receive, from the order entry computer, a request to facilitate delivery of, and payment for, the package, and shipment order information associated with the request, and store at least a portion of said request and said shipment order information in the data memory;

electronically receive a notice that transportation of the package from a source location toward an intermediate location is under a package escrow command requesting holding of the package at the intermediate location pending a verification of payment into an escrow account

from the purchaser's funds account and update said data memory based on the notice that the package is in transit;

electronically receive, from the escrow bank computer, the payment escrow verification indicating payment into the escrow account from the purchaser's funds account for the package and update said data memory based on the escrow payment verification;

responsive to the payment escrow verification, electronically transmit to the carrier computer a release command terminating the package escrow command and allowing transport of the package beyond the intermediate location to the destination location;

electronically receive, from the carrier computer, a delivery verification and update said data memory based on the delivery verification; and

responsive to the delivery verification, electronically transmit a distribution command to the escrow bank computer causing transfer of the payment from the escrow account to a funds account of the seller.

39. A hub and spoke computer system of Claim 38, wherein the shipment order information includes the destination location for the package, a tracking number for the package, a transaction amount and seller identifier from the order entry system computer, wherein the verification of payment includes a verification of payment of at least the transaction amount, wherein the delivery verification includes receiving notice of detection of the tracking number from the carrier computer and wherein transfer of the payment to the funds account of the seller includes transfer of at least the transaction amount.

40. A hub and spoke computer system of Claim 38, wherein the facilitator computer is configured to receive the notice that the package is in transit from the order entry system.

41. A hub and spoke computer system of Claim 40, wherein the facilitator computer is configured to electronically transmit to the carrier computer the package escrow command subsequent to receipt of the shipment order information, the package escrow command preventing transport of the package beyond the intermediate location which is prior to the destination location.

42. A method of Claim 25, wherein receiving the package includes receiving delivery information associated with the package and wherein receiving the shipment order information includes receiving a request to hold the package at the intermediate location pending payment into escrow.

43. A method of Claim 42, wherein receiving the package is performed prior to receiving the shipment order information.

44. A method of Claim 42, wherein the request to hold the package is generated automatically subsequent to receiving the delivery information.

45. A method of Claim 42, wherein the request to hold the package is received from the seller.

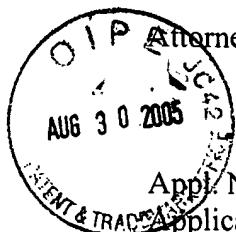
9. ***Evidence Appendix.***

None.

10. ***Related Proceedings Appendix.***

None.

8-31-05



Attorney's Docket No. 018360/218130

PATENT 3625

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In The United States Patent And Trademark Office

Appl. No.: 09/939,782 Confirmation No.: 2833
Applicant(s): Alie, et al.
Filed: 08/27/2001
Art Unit: 3625
Examiner: Robert M. Pond
Title: INTERNATIONAL CASH-ON-DELIVERY SYSTEM AND METHOD

Docket No.: 018360/218130
Customer No.: 00826

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**APPEAL BRIEF TRANSMITTAL
(PATENT APPLICATION – 37 C.F.R. § 41.37)**

1. Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on June 30, 2005.
2. Applicant claims small entity status.
3. Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:
 small entity \$250.00
 other than small entity \$500.00

Appeal Brief fee due \$500.00

Any additional fee or refund may be charged to Deposit Account 16-0605.

Respectfully submitted,



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Appl No.: 09/939,782

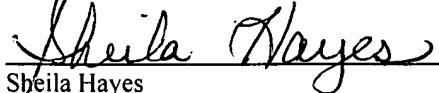
Filing Date: 08/27/2001

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"Express Mail" mailing label number EV215014868US

Date of Deposit August 30, 2005

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CLT01/4743395v1